REMARKS

The rejection of claims 21 to 43 "under 35 U.S.C. 103(a) as being unpatentable over Chen. . . in view of Dietrich *et al.* . . ." is respectfully traversed in the same manner and the same reasons as set forth in Applicants' remarks of February 24, 2004, which are repeated herein by reference.

Although references may be combined for the purpose of showing that a claim is unpatentable, they may not be combined indiscriminately; to determine whether the combination of references is proper, the following criterion is often used, namely: whether the prior art suggests doing what an Applicant has done. *In re Skoll*, 187 U.S.P.Q. 481, 484 (CCPA 1975).

In the present case, you will see from the following comments that even the references, as applied, do not lead to that which is expressly called for by Applicants' claims.

Issue is respectfully taken with the unwarranted evaluation of Applicants' claimed subject matter as reflected by the statement:

> Taking a known type of dosage form, such as the system disclosed by Chen, and using a known active agent in the formulation, is not patentable. . .

Applicants do not call for their recited active agent in Chen's formulation. Chen provides a plurality of populations of pellets "bursting" at different particular release time intervals after initial contact with a defined environment (meaning that the particles all have delayed release means, which are designed to burst at different particular release times after initial contact with the environment).

Applicants' claims call for a combination of sustained-release compositions and enteric coated active agent. No such combination is either disclosed or suggested by Chen, who only discloses a combination of administration forms with different delayed-release means and which

burst at different points in time.

The administration form comprising the active agent together with a tablet disintegrant and bearing a coating film for sustained release is designed to be released only after a defined time.

Please note that the oral administration forms of Applicants' claimed invention are designed, e.g., for treating disorders of the stomach. Chen's proposed compositions prevent dissolving of the polymer in the stomach, as expressly set forth at column 2, lines 20 and 21. This is a direct teaching away from Applicants' claimed invention.

Having sufficiently distinguished over the applied art, favorable reconsideration and withdrawal of the outstanding rejection are in order and are respectfully solicited.

Respectfully submitted,

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